



City Council Chambers  
3300 Capitol Avenue  
Fremont, California

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### City Council

Bob Wasserman, Mayor  
Suzanne Lee Chan, Vice Mayor  
Anu Natarajan  
Bill Harrison

### City Staff

Fred Diaz, City Manager  
Harvey E. Levine, City Attorney  
Annabell Holland, Interim Assistant City  
Manager/Parks & Recreation Director  
  
Dawn G. Abrahamson, City Clerk  
Robert Beyer, Interim Community Dev. Director  
Harriet Commons, Finance Director  
Marilyn Crane, Information Technology Svcs. Dir.  
Mary Kaye Fisher, Interim Human Resources Dir.  
Norm Hughes, City Engineer  
Bruce Martin, Fire Chief  
Jim Pierson, Transportation & Ops Director  
Jeff Schwob, Planning Director  
Suzanne Shenfil, Human Services Director  
Craig Steckler, Chief of Police  
Lori Taylor, Economic Development Director  
Elisa Tierney, Redevelopment Director

## City Council Agenda and Report [Redevelopment Agency of Fremont]

### General Order of Business

1. Preliminary
  - Call to Order
  - Salute to the Flag
  - Roll Call
2. Ceremonial Items
3. Consent Calendar
4. Public Communications
5. Scheduled Items
  - Public Hearings
  - Appeals
  - Reports from Commissions, Boards and Committees
6. Report from City Attorney
7. Other Business
8. Council Communications
9. Adjournment

### Order of Discussion

Generally, the order of discussion after introduction of an item by the Mayor will include comments and information by staff followed by City Council questions and inquiries. The applicant, or their authorized representative, or interested citizens, may then speak on the item; each speaker may only speak once to each item. At the close of public discussion, the item will be considered by the City Council and action taken. Items on the agenda may be moved from the order listed.

### Consent Calendar

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which case the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address the City Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.



## **Addressing the Council**

Any person may speak once on any item under discussion by the City Council after receiving recognition by the Mayor. Speaker cards will be available prior to and during the meeting. To address City Council, a card must be submitted to the City Clerk indicating name, address and the number of the item upon which a person wishes to speak. When addressing the City Council, please walk to the lectern located in front of the City Council. State your name. In order to ensure all persons have the opportunity to speak, a time limit will be set by the Mayor for each speaker (see instructions on speaker card). In the interest of time, each speaker may only speak once on each individual agenda item; please limit your comments to new material; do not repeat what a prior speaker has said.

## **Oral Communications**

Any person desiring to speak on a matter which is not scheduled on this agenda may do so under the Oral Communications section of Public Communications. Please submit your speaker card to the City Clerk prior to the commencement of Oral Communications. **Only those who have submitted cards prior to the beginning of Oral Communications will be permitted to speak.** Please be aware the California Government Code prohibits the City Council from taking any immediate action on an item which does not appear on the agenda, unless the item meets stringent statutory requirements. The Mayor will limit the length of your presentation (see instructions on speaker card) and each speaker may only speak once on each agenda item.

**To leave a voice message for all Councilmembers and the Mayor simultaneously, dial 284-4080.**

**The City Council Agendas may be accessed by computer at the following Worldwide Web Address: [www.fremont.gov](http://www.fremont.gov)**

## **Information**

Copies of the Agenda and Report are available in the lobbies of the Fremont City Hall, 3300 Capitol Avenue and the Development Services Center, 39550 Liberty Street, on Friday preceding a regularly scheduled City Council meeting. Supplemental documents relating to specific agenda items are available at the Office of the City Clerk.

The regular meetings of the Fremont City Council are broadcast on Cable Television Channel 27 and can be seen via webcast on our website ([www.Fremont.gov](http://www.Fremont.gov)).

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 2 working days in advance of the meeting by contacting the City Clerk at (510) 284-4060. Council meetings are *open captioned* for the deaf in the Council Chambers and *closed captioned* for home viewing.

## **Availability of Public Records**

All disclosable public records relating to an open session item on this agenda that are distributed by the City to all or a majority of the City Council less than 72 hours prior to the meeting will be available for public inspection in specifically labeled binders located in the lobby of Fremont City Hall, 3300 Capitol Avenue during normal business hours, at the time the records are distributed to the City Council.

Information about the City or items scheduled on the Agenda and Report may be referred to:

Address: City Clerk  
City of Fremont  
3300 Capitol Avenue, Bldg. A  
Fremont, California 94538  
Telephone: (510) 284-4060

*Your interest in the conduct of your City's business is appreciated.*

**AGENDA**  
**FREMONT CITY COUNCIL REGULAR MEETING**  
**DECEMBER 7, 2010**  
**COUNCIL CHAMBERS, 3300 CAPITOL AVE., BUILDING A**  
**7:00 P.M.**

**1. PRELIMINARY**

- 1.1 Call to Order
- 1.2 Salute the Flag
- 1.3 Roll Call
- 1.4 Announcements by Mayor / City Manager

**2. CEREMONIAL ITEMS**

**2.1 CERTIFICATION OF ELECTION**

Certification of the General Municipal Election of November 2, 2010

Contact Person:

Name:	Dawn G. Abrahamson	Annabell Holland
Title:	City Clerk	Interim Assistant City Manager
Dept.:	City Clerk	City Manager
Phone:	510-284-4060	510-284-4060
E-Mail:	dabrahamson@fremont.gov	aholland@fremont.gov

RECOMMENDATION: Adopt a resolution that:

- 1. Receives the Official Canvas of the General Municipal Election, November 2, 2010 from the Alameda County Registrar of Voters.
  - 2. Declares the results of the election.
- 2.2 Recognition of and Comments by Outgoing Councilmember
  - 2.3 Oath of Office and Installation of Newly Elected Councilmembers
  - 2.4 Comments by Newly Elected Councilmembers
  - 2.5 Reception in Council Chambers for Outgoing and Incoming Elected Officials (30 minutes approx.)

### 3. **CONSENT CALENDAR**

*Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which event the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.*

3.1 *Motion to Waive Further Reading of Proposed Ordinances  
(This permits reading the title only in lieu of reciting the entire text.)*

3.2 *Approval of Minutes – None.*

3.3 *Second Reading and Adoption of an Ordinance rezoning property located at 41482 Fremont Boulevard from Planned District 2003-18 to Planned District 2010-272 (Villas at Florio)*

*RECOMMENDATION: Adopt ordinance.*

3.4 **PUBLIC UTILITY EASEMENT SUMMARY VACATION AT NORTHEAST CORNER OF HASTINGS STREET AND CAPITOL AVENUE**

*To Consider a Summary Vacation of a Public Utility Easement on a Portion of Parcel 1 of Parcel Map 5395 Located at the Northeast Corner of Hastings Street and Capitol Avenue in the Central Planning Area. (PLN2011-00062)*

*Contact Person:*

<i>Name:</i>	<i>Stephen Kowalski</i>	<i>Jeff Schwob</i>
<i>Title:</i>	<i>Associate Planner</i>	<i>Planning Director</i>
<i>Dept.:</i>	<i>Community Development</i>	<i>Community Development</i>
<i>Phone:</i>	<i>510-494-4532</i>	<i>510-494-4527</i>
<i>E-Mail:</i>	<i>skowalski@fremont.gov</i>	<i>jschwob@fremont.gov</i>

*RECOMMENDATION:*

- 1. Hold public hearing;*
- 2. Find that Summary Vacation PLN2011-00062 is exempt from the California Environmental Quality Act per CEQA Guideline 15305, in that the vacation is considered a minor alteration in land use limitations which does not result in any land use or density changes;*
- 3. Find that Summary Vacation PLN2011-00062 as depicted in Exhibit "A" is in conformance with the General Plan for the reasons stated in the body of this staff report;*
- 4. Find that Summary Vacation PLN2011-00062 as depicted in Exhibit "A" fulfills the applicable criteria for summary vacation for the reasons stated in the body of this staff report; and*
- 5. Adopt a Resolution including the findings referenced above and vacating the subject PUE as depicted and described in Exhibit "A".*

6. *The City Clerk shall record the Resolution for summary vacation PLN2011-00062 with the Alameda County Recorder and return a copy of the recorded Resolution to both the Planning and Engineering Divisions for the PLN2011-00062 project files.*

3.5 **APPRAISAL CONTRACT SERVICES AGREEMENT AMENDMENT #2 WITH HULBERG AND ASSOCIATES—MISSION/WARREN/TRUCK- RAIL PROGRAM**  
*Authorize the City Manager, or his Designee, to Approve and Execute Service Contract Amendment #2 for \$50,000 with Hulberg and Associates, Inc., for the Warren/Mission /Truck-Rail Program*

*Contact Person:*

<i>Name:</i>	<i>Randy Sabado</i>	<i>Jim Pierson</i>
<i>Title:</i>	<i>Real Property Manager</i>	<i>Director</i>
<i>Dept.:</i>	<i>Community Development Services</i>	<i>Transportation &amp; Operations</i>
<i>Phone:</i>	<i>510-494-4715</i>	<i>510-494-4722</i>
<i>E-Mail:</i>	<i>rsabado@fremont.gov</i>	<i>jpierson@fremont.gov</i>

*RECOMMENDATION: Authorize the City Manager, or his designee, to approve and execute Service Contract Amendment #2 for \$50,000 with Hulberg and Associates, Inc., for property appraisal services needed for the Mission/Warren/Truck-Rail Program.*

3.6 **ALAMEDA COUNTY CONTRACT TO SUPPORT THE FREMONT FAMILY RESOURCE CENTER**  
*Authorization for the City Manager to Execute an Agreement for FY 2010/11 with Alameda County Health Care Services Agency to Support the Fremont Family Resource Center Programs and Services*

*Contact Person:*

<i>Name:</i>	<i>Judy Schwartz</i>	<i>Suzanne Shenfil</i>
<i>Title:</i>	<i>FRC Administrator</i>	<i>Director</i>
<i>Dept.:</i>	<i>Human Services</i>	<i>Human Services</i>
<i>Phone:</i>	<i>510- 574-2007</i>	<i>510-574-2051</i>
<i>E-Mail:</i>	<i>jschwartz@fremont.gov</i>	<i>sshensfil@fremont.gov</i>

*RECOMMENDATION: Authorize City Manager or his designee to enter into an agreement with Alameda County Health Care Services Agency in the amount of \$100,000 for support of the Fremont Family Resource Center.*

## **4. PUBLIC COMMUNICATIONS**

### **4.1 Oral and Written Communications**

REDEVELOPMENT AGENCY – None.

PUBLIC FINANCING AUTHORITY – The Public Financing Authority Board will convene at this time and take action on the agenda items listed on the Public Financing Authority Agenda. [See separate agenda](#) (lilac paper).

## CONSIDERATION OF ITEMS REMOVED FROM CONSENT CALENDAR

### 5. SCHEDULED ITEMS – None.

### 6. REPORT FROM CITY ATTORNEY

6.1 Report Out from Closed Session of Any Final Action

### 7. OTHER BUSINESS

#### 7.1 PROPOSED ISSUANCE OF 2010 VARIABLE RATE DEMAND CERTIFICATES OF PARTICIPATION (COPs)

Proposed Issuance of 2010 Variable Rate Demand Certificates of Participation (COPs) to Finance the Police Building Seismic Retrofit Project, Major Maintenance of Other City Buildings, Acquisition of Equipment, and Street Light Replacement with LEDs, and Appropriation of Funds (companion item on PFA agenda)

Contact Person:

Name: Harriet Commons  
Title: Finance Director/Treasurer  
Dept.: Finance  
Phone: 510-284-4010  
E-Mail: [hcommons@fremont.gov](mailto:hcommons@fremont.gov)

1. Approve the issuance of the 2010 Variable Rate Demand Certificates of Participation with a principal amount not to exceed \$17,500,000, and approve and appropriate the use of debt proceeds for the capital projects described in this report.
2. Adopt a resolution authorizing the preparation and execution by the City officers and staff identified in the resolution of all documents required to complete the 2010 Variable Rate Demand Certificates of Participation transaction, including the following lease financing documents (which are and have been on file with

the Office of the City Clerk) in connection with the 2010 Variable Rate Demand Certificates of Participation:

- a. Site and Facility Lease
- b. Lease Agreement
- c. Memorandum of Lease Agreement
- d. Reimbursement Agreement with U.S. Bank
- e. Trust Agreement with Union Bank of California
- f. Certificate Purchase Agreement with Barclays Capital
- g. Remarketing Agreement with Barclays Capital

## 7.2 INFORMATION REPORT ON CARGILL SALT TRANSPORTATION ISSUES FOR THE GENERAL PLAN UPDATE EIR

Response to Direction from the City Council to review the October 26 Request to Review General Plan Update EIR Transportation Assumptions

Contact Person:

Name:	Kelly Diekmann	Jeff Schwob
Title:	Senior Planner	Planning Director
Dept.:	Community Development	Community Development
Phone:	510-494-4540	510-494-4527
E-Mail:	kdiekmann@fremont.gov	jschwob@fremont.gov

RECOMMENDATION: Direct staff to continue with the General Plan Update EIR analysis based on land use assumptions for employment intensities representative of development patterns of the Ardenwood Business Park area.

## 8. COUNCIL COMMUNICATIONS

### 8.1 Council Referrals

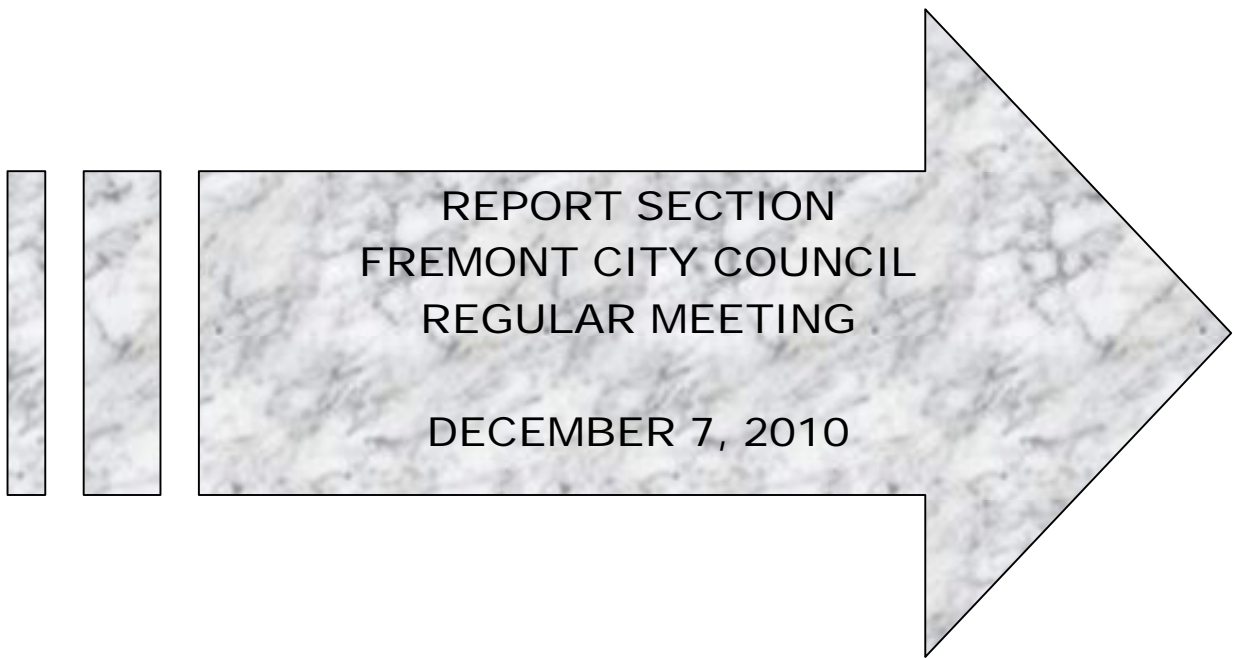
8.1.1 MAYOR WASSERMAN REFERRAL: Discussion and Action of Process for Filling Council Vacancy

### 8.2 Oral Reports on Meetings and Events

## 9. ADJOURNMENT







REPORT SECTION  
FREMONT CITY COUNCIL  
REGULAR MEETING

DECEMBER 7, 2010



## 2.1 CERTIFICATION OF ELECTION

### Certification of the General Municipal Election of November 2, 2010

#### Contact Person:

Name:	Dawn G. Abrahamson	Annabell Holland
Title:	City Clerk	Interim Assistant City Manager
Dept.:	City Clerk	City Manager
Phone:	510-284-4060	510-284-4060
E-Mail:	dabrahamson@fremont.gov	aholland@fremont.gov

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#### BACKGROUND:

On July 6, 2010, the City Council passed Resolution 2010-42 requesting the County of Alameda Registrar of Voters to conduct the general municipal election of November 2, 2010 for the purpose of electing two city council members.

The results have been canvassed and certified by the Alameda Registrar of Voter on November 19, 2010 and presented to the City.

**Official Certified Election Results:** Based upon the Certification of Election results, the names of the persons voted for as candidates for Councilmembers and the total number of votes received and cast in favor of each of the persons voted for were as follows:

CITY COUNCILMEMBER	
Anu Natarajan	18,835
Bill Harrison	17,800
Vinnie Bacon	16,964
Kathy Rhyu McDonald	11,046
J. Timothy Herndon	3,974
Vladimir Rodriguez	3,807
Fazlur Khan	3,126
Kristen Briggs	2,848
Linda Susoev	2,545
Carl Flynn	2,223

**FISCAL IMPACT:** None.

#### ENCLOSURE:

- [Draft Resolution](#)
- [Certificate and Official Canvas of the General Municipal Election, November 2, 2010](#)

**RECOMMENDATION:** Adopt a resolution that:

1. Receives the Official Canvas of the General Municipal Election, November 2, 2010 from the Alameda County Registrar of Voters.
2. Declares the results of the election.

**\*3.3 Second Reading and Adoption of an Ordinance rezoning property located at 41482 Fremont Boulevard from Planned District 2003-18 to Planned District 2010-272 (Villas at Florio)**

**ENCLOSURE:** [Draft Ordinance](#)

**RECOMMENDATION:** Adopt ordinance.

**\*3.4 PUBLIC UTILITY EASEMENT SUMMARY VACATION AT NORTHEAST CORNER OF HASTINGS STREET AND CAPITOL AVENUE**

**To Consider a Summary Vacation of a Public Utility Easement on a Portion of Parcel 1 of Parcel Map 5395 Located at the Northeast Corner of Hastings Street and Capitol Avenue in the Central Planning Area. (PLN2011-00062)**

**Contact Person:**

Name:	Stephen Kowalski	Jeff Schwob
Title:	Associate Planner	Planning Director
Dept.:	Community Development	Community Development
Phone:	510-494-4532	510-494-4527
E-Mail:	skowalski@fremont.gov	jschwob@fremont.gov

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**Executive Summary:** The applicant and property owner, Dr. Dharam Salwan, is requesting a summary vacation for all portions of an existing Public Utility Easement (PUE) which currently encumbers his property at the northeast corner of the intersection of Hastings Street and Capitol Avenue in order to facilitate development of the site with a new mixed-use project. On February 10, 2009, the City Council approved a Preliminary and Precise Planned District for a new four-story mixed-use development with a two-level underground parking garage at the site. The plans for this project utilize the entire property, with building and garage walls and footings extending all the way out to the property lines adjacent to Capitol Avenue and Hastings Street. The existing PUE measures 10 feet in width and runs just inside the property lines fronting the two streets. In order for the project to be able to proceed, the PUE must be vacated so that the development can extend out to the two property lines. The City has contacted all applicable public and private utility providers that serve the area and determined that the PUE as shown in Exhibit "A" is no longer needed for any present or future public or private utility installations. As such, staff recommends that the Council adopt a resolution approving the summary vacation as proposed.

**BACKGROUND:** The subject property was created through the approval of Parcel Map 5395 which split a larger parcel into two lots, the subject lot and the adjacent corner lot sharing the frontage along Capitol Avenue and continuing around to front along Paseo Padre Parkway. This Parcel Map was approved by the City in June 1989. The PUE was dedicated to the City on this Parcel Map.

In December 2007, the applicant submitted an application to rezone the parcel from Central Business District (C-B-D) to a Preliminary and Precise Planned District allowing the development of a four-story mixed-use project with a two-level underground parking garage on the site. The City Council approved the project and adopted Ordinance No. 6-2009 rezoning the property to Planned District P-2008-177 on February 24, 2009.

The applicant has now submitted a building permit application to construct the mixed-use project in accordance with the Council's approval, and is requesting approval of the proposed PUE summary vacation concurrently with the building permit application in order to allow the project to be built per the approved plans.

**DISCUSSION/ANALYSIS:** Subsection (b) of Section 8333 of the California Streets and Highways Code allows a summary vacation of utility easements in cases where one or more of the following conditions can be met:

- (a) The easement has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation; or
- (b) The date of dedication or acquisition is less than five years, and more than one year, immediately preceding the proposed vacation, and the easement was not used continuously since that date; or
- (c) The easement has been superseded by relocation, or determined to be excess by the easement holder, and there are no other public facilities located within the easement.

The PUE was acquired by the City in 1989. In this case, no public or private utility agencies currently have any utilities located within the subject PUE, nor have they had any within the last 5 years. The Alameda County Water District (ACWD) maintains a number of water quality monitoring wells within the public right-of-way immediately adjacent to the property, but these wells will be able to remain in their present locations during and after construction of the project (a condition requiring this was included in the approval of the development by City Council in 2009).

*No Conditions Recommended:* All utility agencies who were notified of the proposed vacation indicated that the vacation would not adversely impact or require the relocation of any of their existing utilities. ACWD has four monitoring wells within the public right-of-way adjacent to the property which must be maintained during and after construction of the project, but none of these wells is located within the PUE. As such, no conditions of approval are necessary for any utility line relocations to allow for the proposed vacation.

*General Plan Conformance:* The California Streets and Highways Code requires that, if the proposed vacation of a PUE is within an area for which a general plan is adopted, the City Council consider the project's consistency with the applicable general plan prior to vacating the easement. The proposed summary vacation conforms to the following Fundamental Goal of the City of Fremont General Plan:

**Fundamental Goal F-10:** *Public services responsibly managed and equitably distributed throughout the City.*

*Analysis:* The proposed vacation would not affect utility services to the subject area or the public at large in that no utility agencies or companies have indicated the presence of any utilities located within the PUE. The "dry" utilities such as electricity lines and telephone and cable services would be able to be accommodated within the sidewalks that will be constructed as part of the mixed-use development, while the "wet" utilities such as water, sewer and storm drain lines will remain in the streets and serve the project via laterals that run perpendicular to the mains and tap directly into the building.

*Zoning Compliance:* Pursuant to Council Resolution No. 9216, the proposed summary vacation does not require Planning Commission review because of its minor nature and the fact that it only involves the disposition of public interests relating to a non-street vacation. As such, no analysis for compliance with the Zoning Ordinance is necessary, and no Planning Commission action need occur.

Central Business District Concept Plan Conformance: The proposed summary vacation conforms to the Central Business District (CBD) Concept Plan's goal of fostering a pedestrian-oriented environment along the primary streets of the CBD by requiring new buildings to be built up to the property line as opposed to being set back behind parking lots and large front yards. The PUE measures 10 feet in width and therefore, if it were not vacated, the proposed building would have to be set back a minimum distance of 10 feet from both the Capitol Avenue and Hastings Street property lines since structures cannot be built over PUEs. Removing the PUE through a summary vacation will enable the building to be built up to the property lines fronting the two streets in compliance with the Concept Plan's Building Design Guidelines.

**FISCAL IMPACT:** Not applicable.

**ENVIRONMENTAL REVIEW:** The proposed summary vacation of the PUE is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15305, Minor Alterations in Land Use Limitations.

**PUBLIC NOTICE AND COMMENT:** Not applicable. State law does not require notification of public hearings for proposed summary vacations.

**NOTIFICATION TO PUBLIC & PRIVATE UTILITY COMPANIES:** Staff has notified all utility agencies and companies providing service in the project area of the proposed PUE vacation. All agencies and companies that were notified have responded to the City and indicated that they do not currently own or maintain, or plan to install or in the future, any utilities within the subject PUE.

**ENCLOSURE:**

- [Draft Resolution](#)
- [Exhibit "A" – Plat and Legal Description of Proposed Summary Vacation of PUE](#)

**RECOMMENDATION:**

1. Hold public hearing;
2. Find that Summary Vacation PLN2011-00062 is exempt from the California Environmental Quality Act per CEQA Guideline 15305, in that the vacation is considered a minor alteration in land use limitations which does not result in any land use or density changes;
3. Find that Summary Vacation PLN2011-00062 as depicted in Exhibit "A" is in conformance with the General Plan for the reasons stated in the body of this staff report;
4. Find that Summary Vacation PLN2011-00062 as depicted in Exhibit "A" fulfills the applicable criteria for summary vacation for the reasons stated in the body of this staff report; and
5. Adopt a Resolution including the findings referenced above and vacating the subject PUE as depicted and described in Exhibit "A".
6. The City Clerk shall record the Resolution for summary vacation PLN2011-00062 with the Alameda County Recorder and return a copy of the recorded Resolution to both the Planning and Engineering Divisions for the PLN2011-00062 project files.

**\*3.5 APPRAISAL CONTRACT SERVICES AGREEMENT AMENDMENT #2 WITH HULBERG AND ASSOCIATES—MISSION/WARREN/TRUCK- RAIL PROGRAM**  
**Authorize the City Manager, or his Designee, to Approve and Execute Service Contract Amendment #2 for \$50,000 with Hulberg and Associates, Inc., for the Warren/Mission /Truck-Rail Program**

**Contact Person:**

Name:	Randy Sabado	Jim Pierson
Title:	Real Property Manager	Director
Dept.:	Community Development Services	Transportation & Operations
Phone:	510-494-4715	510-494-4722
E-Mail:	rsabado@fremont.gov	jpierson@fremont.gov

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**Executive Summary:** The purpose of this report is to request that the City Council authorize the City Manager or his designee to execute Amendment #2 in the amount of \$50,000 with Hulberg and Associates, Inc., for the appraisal of properties needed for the Mission/Warren/Truck-Rail Program. This would bring the total amount of the not to exceed contract to \$200,000.

**BACKGROUND:** The I-880/ Mission Boulevard (Route 262) Interchange Reconstruction Project is a joint project of the City of Fremont, Alameda County Transportation Authority and Caltrans. This project will provide a critical link to I-880 and connecting commercial areas in the City, and improve traffic flow by separating local streets and regional traffic and mass transportation movements.

The Interchange Reconstruction project is divided into three phases. Phase 1A included the widening of I-880 between the Interchange and Dixon Landing Road, all of the ramps to and from Mission Boulevard and I-880, and the extension of East Warren Avenue over I-880 to connect to West Warren Avenue. This phase was completed in June 2009.

Phase 1B includes the widening of Mission Boulevard between I-880 and Warm Springs Boulevard, as well as the replacement of ramps at Mission and Kato Road that were removed as part of Phase 1A. Phase 2 is a grade separation project that will depress Warren Avenue under two Union Pacific Railroad (UPRR) tracks between Kato Road and Warm Springs Boulevard immediately adjacent to, and south of Mission Boulevard. The eastern UPRR track is now owned by the Santa Clara Valley Transportation Authority (VTA) and the corridor will be used for the Silicon Valley BART extension. A third element of work separate from Phases 1B and 2, needed by VTA, involves modifying truck access and freight access to a private truck-rail materials transfer business currently located on VTA and UPRR property within the right-of-way.

The Warren Avenue Grade Separation, the relocation of freight facilities, and the widening of Mission Boulevard are tied together by the UPRR track realignment required for each project and therefore the three must be closely coordinated and designed by a single entity. These three projects (Phase 1B, Mission Widening; Phase 2, Warren Grade Separation; and Truck-Rail modification) are collectively known as the Mission/Warren/Truck-Rail or MWT Program. There are now four agencies involved in the MWT Program: Fremont, Caltrans, ACTA and VTA. Based on agreements between these agencies VTA is the project manager of the MWT Program and manages the final design, right-of-way



acquisition, and utility relocation and construction efforts. The City is performing most of the right-of-way acquisitions for the MWT Program.

**Discussion/Analysis:** Staffs from ACTA, VTA, Caltrans and the City have entered into a Memorandum of Understanding (MOU) to document the roles, responsibilities, costs and funding of the MWT Program. The MOU is consistent with all prior funding agreements and calls for the City to contribute \$23.9 million to the MWT Program. This funding is made up of \$14 million of Redevelopment funds previously committed to Phases 1B and 2 of the I-880 Mission Boulevard Interchange Projects and \$9.659 million of City savings from Phase 1A of the Interchange Project. In addition, the City has committed \$5 million from the “Bridge Benefit District” account, “Fund 188”, as the City’s future construction contingency should project costs increase.

Although the MWT Program is fully funded, VTA and Fremont are the only two agencies with funding currently available for right-of-way acquisition and utility relocation, with the exception of \$2.3 million of Caltrans utility cost savings from Phase 1A. All other funding to be contributed by Caltrans and ACTA are future state and federal funds that will be used for construction. The major portion of this future funding is from the East-West Connector Project moving forward, allowing \$42.35 million in Route 84 excess land sale proceeds to be allocated to the MWT Program.

The City has entered into a Right-of-Way Acquisition and Utility Relocation Funding Agreement with VTA and ACTA to provide its share of the costs of the MWT Program. Based upon this agreement, the City’s contribution will not exceed \$10,313,476 without a written amendment to the agreement. Pursuant to the agreements between the parties, VTA is managing the overall right-of-way acquisition effort, and Fremont is assisting VTA with these duties. Fremont Real Property staff will be the lead on most of the right-of-way acquisitions for the Warren Avenue Grade Separation and Mission Boulevard Widening components. VTA will lead the property acquisition efforts with UPRR for all Project components. All Fremont costs, including staff, appraisal consultants and legal costs, will be billed to VTA and reimbursed from the Project budget.

In order to complete the appraisals on properties needed for the I-800/Mission Boulevard and Warren Avenue Grade Separation Projects, staff requested proposals from several qualified state licensed appraisers. The firm of Hulberg and Associates was selected in 2007 based upon their qualifications in completing complex appraisals, including those involving railroad properties. A Services Contract for appraisal services was executed in an amount not to exceed \$75,000. The appraisals were completed with the expectation that offers were going to be made in 2008. However, due to design changes, additional property acquisitions and issues related to funding and interagency agreements, offers to property owners could not be made, resulting in outdated appraisals. On April 28, 2009, City Council approved Amendment #1 for an additional \$75,000, bringing the total not to exceed contract amount to \$150,000 in order to update revised appraisals and provide new appraisals for new property interests. After the contract was amended and the appraisals were updated, more design changes and schedule delays resulted in the need for additional updated and revised appraisals at a cost of \$50,000. These additional costs will be reimbursed to the City from the program budget.

**FISCAL IMPACT:** The costs of these additional services will be reimbursed to the city from the program budget.

**ENVIRONMENTAL REVIEW:** N/A

**ENCLOSURE:** None

**RECOMMENDATION:** Authorize the City Manager, or his designee, to approve and execute Service Contract Amendment #2 for \$50,000 with Hulberg and Associates, Inc., for property appraisal services needed for the Mission/Warren/Truck-Rail Program.

**\*3.6 ALAMEDA COUNTY CONTRACT TO SUPPORT THE FREMONT FAMILY RESOURCE CENTER**

**Authorization for the City Manager to Execute an Agreement for FY 2010/11 with Alameda County Health Care Services Agency to Support the Fremont Family Resource Center Programs and Services**

**Contact Person:**

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**Executive Summary:** The Alameda County Health Care Services Agency wishes to renew its \$100,000 funding commitment to the Fremont Family Resource Center (FRC) to support the center's infrastructure and to assist with implementation of its strategic goals. Staff recommends the City Council authorize the City Manager to enter into an agreement with the County for the funds.

**BACKGROUND:** The Director of Health Care Services for Alameda County notified the Fremont Human Services Department that a recommendation was being made to the County Board of Supervisors to allocate \$100,000 for a fifth year to the Fremont Family Resource Center to provide infrastructure support and essential public health services in line with Measure A County Ordinance Sec 2.08.241 (D) and with a new policy health agenda recently adopted by Alameda County's Public Health Department called *Place Matters*, as well as to help implement strategic goals including sustainability planning. The Place Matters Local Policy Agenda reflects five critical policy areas that can positively inform the health outcomes of every resident in Alameda County. However, the policy document states, "*Economic status is arguably the strongest determinant of health.*"

**DISCUSSION/ANALYSIS:** Funds will be used to assist low-income Tri- City families to become financially self sufficient, thus allowing them greater access to health services and those things that will allow them to lead healthier lives, such as healthy nutrition. Services include the FRC's Family Economic Success Program, which includes the Volunteer Income Tax Assistance Program (VITA), Money Smart, and the Individual Development Account (IDA) program for FRC clients. The FRC also plans to continue the Community Advisory and Engagement Board as a vehicle for consumer involvement and to assist with marketing the services of the FRC. Funding will also allow the FRC to continue a monthly training series open to FRC partner agencies as well as outside social service agencies. This series now offers continuing education units to staff who attend.

**FISCAL IMPACT:** ACHCS is providing \$100,000 from November 1, 2010-October 31, 2011 for support of the FRC strategic planning and infrastructure and family economic success programs. The City Council appropriated this funding as part of the FY 2010/11 adopted budget.

**ENVIRONMENTAL REVIEW:** NA

**ENCLOSURE:** None

**RECOMMENDATION:** Authorize City Manager or his designee to enter into an agreement with Alameda County Health Care Services Agency in the amount of \$100,000 for support of the Fremont Family Resource Center.

## **6.1 Report Out from Closed Session of Any Final Action**

## **7.1 PROPOSED ISSUANCE OF 2010 VARIABLE RATE DEMAND CERTIFICATES OF PARTICIPATION (COPs)**

**Proposed Issuance of 2010 Variable Rate Demand Certificates of Participation (COPs) to Finance the Police Building Seismic Retrofit Project, Major Maintenance of Other City Buildings, Acquisition of Equipment, and Street Light Replacement with LEDs, and Appropriation of Funds (companion item on PFA agenda)**

### **Contact Person:**

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Dept.: Finance  
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**Note: A companion report is on tonight's agenda of the Fremont Public Financing Authority.**

**Executive Summary:** In this report, staff proposes that the City Council approve the issuance of the 2010 Variable Rate Demand Certificates of Participation (COPs) and authorize execution of the associated lease financing documents. The 2010 Variable Rate Demand COPs are proposed in an amount not to exceed \$17.5 million. This report explains the reasoning behind this proposed financing, the uses to be made of the debt proceeds, and the leasing of City properties to secure the debt service payments. The City will still be in compliance with Council's long-term debt policy because total annual debt service for all outstanding debt is not expected to exceed 7% of General Fund expenditures and transfers out.

**DISCUSSION/ANALYSIS:** The 2010 Variable Rate Demand COPs will provide up to \$17.5 million to fund all or a portion of the following capital projects: (1) Police Building seismic retrofit, (2) acquisition of public safety apparatus, (3) equipment for participation in the East Bay Regional Communications System Authority (EBRCSA) to enhance radio interoperability in Alameda and Contra Costa Counties, (4) major building and roof/HVAC renovations at the Development Services Center, Irvington Community Center, and the Main Library, and (5) streetlight replacement with LEDs.

The FY 2009/10 – 2013/14 Capital Improvement Program (CIP) included several projects with funding to come from the issuance of debt, and several more have been identified as part of the biennial CIP update currently underway. Those projects are described below.

**Police Building Seismic Retrofit:** The Fremont Police Building is a three-story steel moment frame building constructed in the mid-1990s. The seismic retrofit project upgrades the building to meet both life-safety and immediate-occupancy performance levels by strengthening 145 beam-to-column connections and adding 28 brace frames. In addition, critical non-structural components (HVAC, plumbing, electrical) are also being upgraded, as needed. This project is estimated to cost \$10.9 million. A portion of the needed funding will come from interest earnings on the Public Safety GO bond proceeds and from the 2008 variable rate demand certificates of participation. The remainder of the funding (\$6.5 million) will be provided by a portion of the proceeds from the 2010 Variable Rate Demand COPs.

***Public Safety Apparatus Replacement:*** Routine replacement of major Fire apparatus is almost complete. The remaining items scheduled for replacement are an air/light unit and a Type IV engine, and the Fire Department also identified a need for a 3,000-gallon water tender (instead of a “weapons of mass destruction” unit, which was achieved earlier through the refurbishment of a fire engine for that purpose). This project for the routine replacement of the bulk of the City’s older fire apparatus is described in more detail in the CIP. This acquisition will complete the existing replacement project, at a not-to-exceed cost of \$1.5 million.

***Radio Interoperability Project:*** On September 28, 2010, Council authorized the City’s participation in the East Bay Regional Communications System Authority (EBRCSA), established to own, build and operate a P-25 compliant communications system. As part of that action, the Council also adopted a resolution expressing official intent to reimburse the required initial service payment of up to \$2.0 million from the proceeds of a future issuance of COPs. A \$1,458,150 payment is due in December 2010, with any remaining payment (based on a final count of participating agencies and radios) due in FY 2013/14, when the Authority commences radio operation.

***Development Services Center Seismic Upgrades and Building Improvements: Seismic Upgrade.*** In 2007/08, a study was done to measure the quality of the Development Services Center building construction with respect to seismic safety. The consultants made several recommendations to strengthen the building. In 2008 a project was completed that included seismically tying two ends of the building together along the corresponding roof members to protect against collapse and placing protective film over windows so that, if they shatter, the exit routes from the second floor would not be littered with broken glass.

The next project (proposed as part of this COP issuance) is to seismically tie the remaining two sides of the building to the roof members. This should further improve the building’s ability to withstand an earthquake. This project was not previously completed because it cost \$1.3 million and could only be funded through the City’s General Fund. Using COPs makes this project feasible and the City should see a return on this investment when it sells the building.

**Roof and HVAC.** The Development Center roof is beyond its normal replacement life. The current roof has been patched over the years to keep it water tight, although leaks have occurred from time to time. The most recent patching was done following the first phase of the seismic retrofit. Because the second phase of the seismic retrofit also requires tearing into the roof, the roof replacement has been held off until this next phase could proceed. The proposed project would install a “cool roof” at a cost of approximately \$300,000 to also reduce energy costs.

The HVAC units are well beyond their normal replacement life. Staff has not been able to replace these units because they are expensive at \$300,000 and it was hoped it could be done in conjunction with the new roof. It is most cost effective to replace the HVAC at the same time as the roof replacement. The HVAC replacement with new, energy saving equipment will further increase the City’s energy cost savings at the Development Center and will help the City achieve its greenhouse gas reduction goals.

The total estimated cost for this project is \$1.9 million (\$1.3 million for the seismic upgrade, \$300,000 for the roof, and \$300,000 for the HVAC).

**Irvington Community Center Roof, HVAC, and Solar Improvements:** The roof at the Irvington Community Center is also beyond its normal replacement life. The proposed project would install a “cool roof,” which should save the City money on energy costs, and it will also include a solar installation. The HVAC unit is also well beyond its normal replacement life. It is most cost effective to replace the HVAC at the same time as the roof replacement. The HVAC replacement with new, energy saving equipment will further enhance the City’s energy cost savings. Both the roof replacement and the new HVAC system will not only reduce the City’s maintenance and energy costs, and will help the City achieve its greenhouse gas reduction goals. The timing of these projects should also allow the City to take advantage of the current construction bid climate. The estimated cost for this project is \$1.1 million.

**Main Library HVAC System Replacement:** The roof at the Main Library was recently replaced using funds provided by the American Recovery and Reinvestment Act (ARRA or federal stimulus). However, the HVAC system was not replaced at the same time due to the cost. The HVAC unit is also well beyond its normal replacement life. This project will reduce City maintenance costs for this facility. Its estimated cost is \$1.3 million.

**Street Light Replacement with Light Emitting Diodes (LEDs):** The City’s traffic signals all have LED bulbs, which have resulted in both energy and maintenance savings over the years. Staff proposes replacing City street lights with LEDs for the same reasons. Not only do LEDs save energy, thus reducing utility costs and greenhouse gas emissions, they also have a longer life and need to be replaced less frequently. Currently, \$700,000 is proposed for this project, which will result in retrofitting approximately 10% of the City’s street lights.

**2010 COP Issue – Variable Rate:** The proposed variable interest rate COP will be in a principal amount not to exceed \$17.5.0 million. The principal amount is an upper limit that will not be exceeded, but which allows for the actual amount to be set depending on market interest rates available at the time of sale. This is a normal industry practice to avoid delaying the sale of the new debt to investors, and has been authorized by the City Council on previous occasions. The principal balance for the variable rate COPs is currently projected to be \$15.0 million.

The following table, using the latest scenario provided by the City’s financial advisor, shows the estimated proceeds and uses for the 2010 COP issue:

Sources:

Total proceeds from sale of COPs	<u>\$15,000,000</u>
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Use of Proceeds:

Capital projects described above	\$14,738,714
Cost of issuance	172,705
Underwriter’s discount	43,386
Letter of credit fee through February 1, 2011	20,195
Bank counsel	<u>25,000</u>

Total Uses of Proceeds	<u>\$15,000,000</u>
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The amount available for projects is slightly less than the estimated costs of the proposed projects. The portion of project costs not funded from proceeds of the COPs will be funded with City cash from other sources.

**Interest Rates:** The actual interest rate for the variable rate COPs will be reset each week (the rate for the first week is set on the sale date) by the underwriter (remarketing agent). The weekly reset interest rate is based on current market rates for short-term (one week) funds, and is set using the remarketing agent's best judgment as to the rate required to resell any COPs tendered by investors.

Each week, investors can tender (sell back) their COPs to the remarketing agent, who must purchase them. If the remarketing agent cannot resell tendered COPs, and does not want to hold them for its own account, then the standby purchase agreement bank must buy them. If the COPs still remain unsold for an extended time, the standby purchase bank can compel the City to retire the COPs with a cash payment. This remarketing process benefits the City by potentially keeping interest rates at the current lowest market traded levels available each week, but the process can put upward pressure on City interest rates if there is any deterioration in the third party credit ratings. No precise estimate of the actual interest rate over the term of the variable rate COPs can be made, but if history is an accurate guide, the realized interest rate on the variable rate COPs will be substantially less than for fixed interest rate COPs.

**Lease Structure and Debt Service:** The variable rate COPs are to be issued under a lease/leaseback agreement between the City of Fremont and the PFA. A COP is a financing structure similar to a bond, in which a certificate represents an undivided interest in the rental payments made by the local agency pursuant to a lease agreement. The local agency can enter into a tax-exempt lease with a nonprofit corporation or a joint powers authority in order to finance the capital improvement. The local agency has the obligation to pay fair-market rents annually as long as there is beneficial and substantial use of the leased property. Accordingly, the City will lease certain assets to the PFA under a site and facility agreement. The PFA will lease the properties back to the City under a lease agreement. The City will pay an annual lease payment, which will be the source of the debt service payment to the trustee for the benefit of the COP investors. The COPs will mature in 28 years, on August 1, 2038. The variable rate issue can be called by the City at any time without a premium.

To enhance the marketability of the variable rate COPs, the City will pay a quarterly fee for a bank (U.S. Bank) to issue its direct pay letter of credit promising to both pay any debt service payments not made by the City, and to buy and hold any bonds tendered by any investors that cannot be resold by the underwriter. This credit enhancement contract will allow the City's 2010 Variable Rate Demand COPs to carry aaa/AAA credit ratings, thereby reducing their interest rates.

**Lease/Leaseback Security:** In a leaseback financing such as this COP, the leased property securing the debt is normally the property to be acquired or constructed. However, an issuer can also do an "asset transfer," wherein another owned property with a clear title and an acceptable market value is pledged to support the debt. The City will lease various properties (listed below) to the PFA and then lease them back (so there will be no loss in City services or functionality). When the COPs are paid off, the leases expire and the properties revert to the City. Until then, the leased properties remain available for public operational use, but cannot be pledged (except on a subordinated basis) to secure other debts or City promises and cannot be sold without the substitution of adequate replacement security.

The lease/leaseback arrangements will involve the following properties:

- (1) Land and improvements located at 37299 Niles Boulevard (Fire Station 2);
- (2) Land and improvements located at 4355 Central Avenue (Fire Station 6);
- (3) Land and improvements located at 7200 Stevenson Boulevard (Fire Tactical Training Facility).

***Risks Inherent in the Proposed Structure:*** The risks in a variable rate financing are as follows:

- Interest rate volatility – Interest rates may change daily, weekly or monthly based upon an index or a pricing standard stated in the debt contract. Estimates of interest costs are used for budgeting purposes, and may be lower or higher than the actual costs. Because the City's investment portfolio has a relatively short average maturity, the interest earned will generally move in the same direction as interest costs. There are also other safe financing products that can hedge interest rate risk.
- Remarketing risk – The investor has the right to sell the certificate/bond back to the issuer or remarketing agent at specified dates and for a specified price. There is a risk that the remarketing agent may not be able to resell the certificate/bond. This situation can happen when there is no market for this type of certificate/bond, such as in the case of a downgrade of the insurer.
- Ongoing administrative responsibility – Because of the fluctuation in interest rates, the debt service payment has to be recalculated on each payment date. Also, credit enhancements, such as letters of credit or standby purchase agreements, have shorter terms than do the COPs, which means that the agreements have to be renegotiated or terminated. If terminated, proposals to new providers have to be sent out and evaluated. Monitoring the credit rating of the credit enhancement provider is also necessary because, as the City has found, interest rates are sensitive to credit rating changes. Even though there is additional administrative work involved, staff believes the interest savings still outweigh the additional staff cost.

***Credit Enhancement:*** By its nature, a variable rate demand COP requires a liquidity or credit enhancement provider to guarantee payment of debt service and to assure investors the funds are always available to purchase tendered certificates. The debt can be structured to use a letter of credit alone, or a combination of a standby purchase agreement and either bond insurance or a letter of credit. In either structure, an essential element of a variable rate financing is a remarketing agent who purchases and resells the tendered certificates.

- Letter of credit – The issuer enters into an agreement with a bank to provide security to the debt holders that moneys will be available to pay debt service on the due dates. It entitles the trustee to draw upon the letter of credit on every debt service payment date (direct pay) or the trustee draws only when the moneys to pay debt service are insufficient (standby). The bank provides liquidity and credit enhancement, so the issue is marketed based on the bank's credit rating.
- Standby purchase agreement – This is an agreement with a financial institution that guarantees to buy the tendered certificates from the remarketing agent if the latter is unable to remarket the tendered certificates. The variable rate COPs have a demand feature, which gives the investor the option to tender the certificate at specified times prior to the stated maturity.

- Bond insurance – This is an insurance policy to guarantee payment of principal and interest on the due date by reason of non-payment by the issuer. Bond insurance companies insure the certificates during the life of the issue and provide a AAA rating to the certificates.

Given the dearth of bond insurers, staff has not pursued bond insurance for this issue. Proposals to provide a letter of credit/standby purchase agreement were sent out by the City's financial advisor. U.S. Bank, who recently provided the replacement letter of credit for the City's 2008 Variable Rate Demand COPs, will also provide the letter of credit for this issuance. Their letter of credit will be subject to renewal every three years at then prevailing rates. The current rate will be 1.00% of the covered amount annually plus a fee of \$250 per draw on the letter of credit (every quarterly payment date, generally). Rates for all credit enhancement products continue to be relatively high because of the global recession and the related credit market disruptions. If letter of credit renewal rates rise substantially, the City would be faced with the prospect of replacing the letter of credit bank. The City experienced this in 1999 when it replaced letter of credit banks in connection with the 1990 and 1991 COPs because of the high renewal rates then being charged by the initial letter of credit bank. The letter of credit bank (Allied Irish Bank) for the 2008 Variable Rate Demand COPs was replaced in October 2010 because of the financial turmoil in Ireland.

The City will continue to bear indirect credit risk and interest rate risk with the variable rate COPs. If the direct-pay letter of credit bank (U.S. Bank) encounters financial problems, the variable rate COPs could become unmarketable or marketable only at high rates. However, it is generally easier to substitute a letter of credit bank than to replace a bond insurer because there are more banks that write letters of credit than there are AAA-rated bond insurers.

There is no guarantee that interest rate levels as a whole will not rise substantially or that the average variable rates over the 28-year term of the COPs will be less than the fixed interest rate now available. History, and particularly the last twenty years of history, suggests that this scenario is unlikely. However, it is possible, and perhaps probable given the recent upheavals in the credit markets that led to the United States government making an unprecedented bail out of private markets, that interest rates (at least in the near term) are likely to be more volatile than the historical average would otherwise suggest.

**City Long-term Debt Policy Compliance:** Staff has analyzed future debt service payment scenarios in light of the City Council's adopted long-term debt policy. Using modest budget growth assumptions, the City will remain in compliance with Council's long-term debt policy after issuance of the 2010 Variable Rate Demand COPs. During fiscal years 2009/10 and 2010/11, total annual debt service payments are expected to constitute approximately 5.8% and 5.6% of the General Fund's expenditures and transfers out, respectively. These percentages are both below the 7.0% ceiling specified by the long-term debt policy.

**The Financing Team:** Staff proposes that the City engage the services of KNN Public Finance as financial advisor (contract amount not to exceed \$70,000 including expenses) and Quint and Thimmig as bond counsel (contract amount not to exceed \$60,000 including expenses) for this issue. These charges will be paid from the COP sales proceeds.

Staff proposes that Union Bank of California serve as trustee, escrow agent, and fiscal agent with regard to the 2010 Variable Rate Demand COPs. The related annual operational costs will be paid annually during the life of the COPs and are not fixed in amount.

**ENCLOSURES:**

- [Resolution approving, authorizing and directing preparation and execution of certain lease financing documents in connection with the 2010 Variable Rate Demand Certificates of Participation](#)
- [Preliminary Official Statement for the 2010 Variable Rate Demand Certificates of Participation](#)

**RECOMMENDATION:**

1. Approve the issuance of the 2010 Variable Rate Demand Certificates of Participation with a principal amount not to exceed \$17,500,000, and approve and appropriate the use of debt proceeds for the capital projects described in this report.
2. Adopt a resolution authorizing the preparation and execution by the City officers and staff identified in the resolution of all documents required to complete the 2010 Variable Rate Demand Certificates of Participation transaction, including the following lease financing documents (which are and have been on file with the Office of the City Clerk) in connection with the 2010 Variable Rate Demand Certificates of Participation:
  - a. Site and Facility Lease
  - b. Lease Agreement
  - c. Memorandum of Lease Agreement
  - d. Reimbursement Agreement with U.S. Bank
  - e. Trust Agreement with Union Bank of California
  - f. Certificate Purchase Agreement with Barclays Capital
  - g. Remarketing Agreement with Barclays Capital

## 7.2 INFORMATION REPORT ON CARGILL SALT TRANSPORTATION ISSUES FOR THE GENERAL PLAN UPDATE EIR

### Response to Direction from the City Council to review the October 26 Request to Review General Plan Update EIR Transportation Assumptions

#### Contact Person:

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**Executive Summary:** The City of Fremont initiated the process of preparing an Environmental Impact Report (EIR) for the General Plan Update with the issuance of a Notice of Preparation (NOP) on August 23, 2010. In response to the NOP, Cargill Salt submitted scoping comments asking for consideration of the travel demands and trip generation potential for the office/R&D uses in the Ardenwood Business Park area as part of the City's traffic forecast model analysis. The City maintains and uses a travel forecast model to analyze future traffic patterns for major projects; in this case it is the primary tool to evaluate impacts of the General Plan Update. Staff met with Cargill Salt representatives on November 18, 2010 and reached concurrence on the level of employment densities assumed for the Cargill Salt property and Ardenwood Business Park as a whole. Average development assumptions for the General Plan Update will include the majority of vacant land developing with office/R&D uses.

**BACKGROUND:** The City Transportation and Operations Department maintains a travel forecast model for the purpose of estimating future travel demands and patterns. The travel forecast model is a combination of land use assumptions and travel assumptions based on growth projections produced by the Association of Bay Area Governments (ABAG), Metropolitan Transportation Commission (MTC), and Alameda County Transportation Commission (ACTC). The ABAG 2009 projections identify a future Fremont job total of 140,000 jobs, whereas the EIR for the draft General Plan Update considers a job total of approximately 158,000 jobs. The higher level of job potential reflects City Council direction about considering the intensification of uses within the Priority Development Areas in addition to the typical development patterns of the City. The current job estimate for Fremont is approximately 93,000 jobs.

The City model is a refined version of regional and countywide models that accounts for a higher level of local detail. The City updates the model periodically to reflect changes in local conditions and regional projections. The most recent major update was in conjunction with the 2007 citywide impact fee update project. The City will adjust the forecast model in conjunction with the General Plan Update EIR to reflect the draft General Plan.

**DISCUSSION/ANALYSIS:** The General Plan includes a full range of policies related to the interconnection of land use and transportation. The most pertinent consideration for Fremont's environmental review is the location and types of uses located in the City and how they impact existing and planned facilities. The draft General Plan includes a number of land use designations and sub-categories of residential, commercial, and industrial uses. Within each of these categories there is broad

range of users that may occupy a site during the planning period of the General Plan. For residential there is often a range in potential household size or age of occupants. For employment uses there is wide range of job types and intensity of use of a site, even after a site is developed. Effectively at any point in time there may be a high intensity user based on the economic conditions of the time or at the other end of the range a low intensity user based upon a particular job type that requires a large amount of floor area per employee. With this in mind, the General Plan appropriately identifies a wide range of allowable uses and job types within land use designations to allow for future flexibility of development and use.

For the purpose of forecasting growth and identifying potential environmental impacts, the City applies specific factors that approximate existing conditions and accounts for trends related to reasonable citywide economic and housing growth projections, i.e. ABAG Projections 2009. The level of detail on any one parcel of land is generally aggregated to its neighboring types of uses and relevant land use designation within a broader traffic analysis zone (TAZ) area. The aggregated uses within these TAZ's create the trip generation estimates and allow for the analysis of citywide travel demand and patterns.

Neither the EIR for the General Plan Update, nor the travel forecast model, consider full buildout of all properties in the City. The amount of potential growth in Fremont is much higher than can be reasonably forecasted to occur during the life of the General Plan. Additionally, the City's approach to forecasting does not revolve around identifying the highest and best use of particular properties in the City. Such an exercise is impractical due to the nature of estimating market and property owner needs as they change over time. As a result, the EIR analysis and output of a travel forecast model is a reasonable estimate and snapshot of average conditions in a target year. It becomes a benchmark for measuring consistency and progress for the City overall.

The Cargill Salt property location is northwest of the intersection of Paseo Padre Parkway and State Route 84 in the area of the Ardenwood Business Park. The site is a relatively unique circumstance of a vacant large parcel (approximately 92 acres) that is its own TAZ and controlled by a single land owner. Typically a large area like this would be home to a number of different types of businesses and property owners. In this situation with a single property owner and the close proximity to nearby office/R&D uses, Cargill expressed an interest that the area and property not be generalized as industrial and have a more specific categorization related to office/R&D uses that may occur within its land use designation.

City staff reviewed the scoping comment and made changes in the broader City factors related to office/R&D uses and concurs with the request of Cargill Salt on employment density. As result there are a higher number of estimated jobs per acre of land for the Cargill and Ardenwood Business Park area. This reflects its status and corresponding nature as a Restricted Industrial zoning designation that has more office type uses than general industrial uses. Staff worked within the broad City job totals to make adjustments for this area. The City can maintain relative consistency with ABAG regional projections and City Council direction with this change of a more job density estimate.

**FISCAL IMPACT:** None

**ENVIRONMENTAL REVIEW:** None

**ENCLOSURE:** None

**RECOMMENDATION:** Direct staff to continue with the General Plan Update EIR analysis based on land use assumptions for employment intensities representative of development patterns of the Ardenwood Business Park area.

## **8.1 Council Referrals**

### **8.1.1 MAYOR WASSERMAN REFERRAL: Discussion and Action of Process for Filling Council Vacancy**

**RECOMMENDATION:** To proceed with an appointment process and schedule as outlined in the attached enclosure to appoint a person to fill the vacancy until the date of the next regularly scheduled municipal election to be held on November 6, 2012.

Consistent with Section 2-1106 of the Fremont Municipal Code, the City Council has two options to fill the vacancy of Councilmember Bob Wieckowski: (1) within 30 days from the commencement of the vacancy of December 6, 2010, appoint a person to fill the vacancy, or (2) if the Council elects not to appoint or fails to appoint a person to fill the vacancy within the 30-day period, the Council shall call a special election to be held on the date of the next regularly established election. The Alameda Registrar of Voter's estimate to conduct a special election is between the range of \$5.00 to \$7.00 per registered voter. Fremont's current registered voter population is 94,860. Based on that count, the estimated cost would be between \$474,300 to \$664,020, plus other publication, printing, and translation costs borne directly by the City of Fremont.

I am proposing that Council take formal action to proceed with an appointment process. The process will include an application and supplemental questionnaire that would be open and made available to prospective applicants on the website and at the public counter beginning Wednesday, December 8, 2010. Completed applications must be submitted to the City Clerk's office by applicants no later than Noon on December 13, 2010.

**ENCLOSURES:**

- [Process and Schedule for Appointment of City Council Vacancy](#)
- [Application and Supplemental Questionnaire](#)

## **8.2 Oral Reports on Meetings and Events**



## ACRONYMS

ABAG.....	Association of Bay Area Governments	FUSD .....	Fremont Unified School District
ACCMA.....	Alameda County Congestion Management Agency	GIS .....	Geographic Information System
ACE .....	Altamont Commuter Express	GPA.....	General Plan Amendment
ACFCD .....	Alameda County Flood Control District	HARB .....	Historical Architectural Review Board
ACTA .....	Alameda County Transportation Authority	HBA .....	Home Builders Association
ACTIA .....	Alameda County Transportation Improvement Authority	HRC .....	Human Relations Commission
ACWD .....	Alameda County Water District	ICMA .....	International City/County Management Association
BAAQMD .....	Bay Area Air Quality Management District	JPA .....	Joint Powers Authority
BART .....	Bay Area Rapid Transit District	LLMD .....	Lighting and Landscaping Maintenance District
BCDC .....	Bay Conservation & Development Commission	LOCC .....	League of California Cities
BMPs .....	Best Management Practices	LOS .....	Level of Service
BMR .....	Below Market Rate	MOU .....	Memorandum of Understanding
CALPERS.....	California Public Employees' Retirement System	MTC.....	Metropolitan Transportation Commission
CBD .....	Central Business District	NEPA .....	National Environmental Policy Act
CDD.....	Community Development Department	NLC.....	National League of Cities
CC & R's .....	Covenants, Conditions & Restrictions	NPDES.....	National Pollutant Discharge Elimination System
CDBG .....	Community Development Block Grant	NPO.....	Neighborhood Preservation Ordinance
CEQA .....	California Environmental Quality Act	PC.....	Planning Commission
CERT .....	Community Emergency Response Team	PD .....	Planned District
CIP .....	Capital Improvement Program	PUC.....	Public Utilities Commission
CMA .....	Congestion Management Agency	PVAW .....	Private Vehicle Accessway
CNG.....	Compressed Natural Gas	PWC.....	Public Works Contract
COF .....	City of Fremont	RDA .....	Redevelopment Agency
COPPS .....	Community Oriented Policing and Public Safety	RFP .....	Request for Proposals
CSAC.....	California State Association of Counties	RFQ.....	Request for Qualifications
CTC .....	California Transportation Commission	RHNA .....	Regional Housing Needs Allocation
dB .....	Decibel	ROP.....	Regional Occupational Program
DEIR.....	Draft Environmental Impact Report	RRIDRO.....	Residential Rent Increase Dispute Resolution Ordinance
DO .....	Development Organization	RWQCB .....	Regional Water Quality Control Board
DU/AC.....	Dwelling Units per Acre	SACNET .....	Southern Alameda County Narcotics Enforcement Task Force
EBRPD .....	East Bay Regional Park District	SPAA .....	Site Plan and Architectural Approval
EDAC .....	Economic Development Advisory Commission (City)	STIP .....	State Transportation Improvement Program
EIR.....	Environmental Impact Report (CEQA)	TCRDF.....	Tri-Cities Recycling and Disposal Facility
EIS .....	Environmental Impact Statement (NEPA)	T&O .....	Transportation and Operations Department
ERAF .....	Education Revenue Augmentation Fund	TOD .....	Transit Oriented Development
EVAW .....	Emergency Vehicle Accessway	TS/MRF .....	Transfer Station/Materials Recovery Facility
FAR .....	Floor Area Ratio	UBC .....	Uniform Building Code
FEMA.....	Federal Emergency Management Agency	USD.....	Union Sanitary District
FFD.....	Fremont Fire Department	VTa .....	Santa Clara Valley Transportation Authority
FMC.....	Fremont Municipal Code	WMA .....	Waste Management Authority
FPD.....	Fremont Police Department	ZTA.....	Zoning Text Amendment
FRC.....	Family Resource Center		

**UPCOMING MEETING AND CHANNEL 27  
BROADCAST SCHEDULE**

<b><i>Date</i></b>	<b><i>Time</i></b>	<b><i>Meeting Type</i></b>	<b><i>Location</i></b>	<b><i>Cable Channel 27</i></b>
December 14, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
December 15, 2010 – January 3, 2011		Council Recess		
January 4, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
January 11, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
January 18, 2011	TBD	Work Session	Council Chambers	Live
January 25, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
February 1, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
February 8, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
February 15, 2011	TBD	Work Session	Council Chambers	Live
February 22, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
March 1, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
March 8, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
March 15, 2011	TBD	Work Session	Council Chambers	Live
March 22, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
April 5, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
April 12, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
April 19, 2011	TBD	Work Session	Council Chambers	Live
April 26, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live